

Sunset Public Hearing Questions for
ARCHAEOLOGICAL ADVISORY COUNCIL
Created by Section 11-6-103, *Tennessee Code Annotated*
(Sunset termination June 2011)

1. Provide a brief introduction to the Archaeological Advisory Council, including information about its purpose, statutory duties, staff, and administrative attachment.

The Archaeological Advisory Council is an 11-member council designed to provide professional advice to the TDEC Commissioner and State Archaeologist on matters of policy and activities of the Division of Archaeology. The Archaeological Advisory Council has no staff, so Division personnel organize meetings and handle other administrative matters as needed. The Native American members of the Council are notified when Native American burial grounds are excavated. The Archaeological Advisory Council is administratively attached to the Tennessee Department of Environment and Conservation (TDEC).

2. Provide a list of current council members, or their designees, and describe how membership complies with Section 11-6-103, Tennessee Code Annotated. Are there any vacancies on the council and, if so, what is being done to fill those vacancies?

Current council membership, with no vacancies, complies with 11-6-103 as listed below:

**Dr. Jefferson C. Chapman, Chairperson – The University of Tennessee, Knoxville
Dr. Kevin Smith, Vice Chairperson – Middle Tennessee State University, Murfreesboro
Dr. Joseph Rife – Vanderbilt University, Nashville
Dr. David Dye – University of Memphis, Memphis
Dr. Jay Franklin – East Tennessee State University, Johnson City
Ms. Georgia Dennis – Public at Large
Dr. Tom Maher – Tennessee Historical Commission
Ms. Zada Law– Amateur Archaeological Associations
Mr. Michael Lynch – Native American, West Tennessee
Mr. Patrick Cummins – Native American, Middle Tennessee
Mr. Corky Allen – Native American, East Tennessee**

3. What per diem or travel reimbursement do members receive? How much was paid to council members during fiscal years 2009 and 2010? Were any other expenses charged to the council?

Members receive the standard state travel and per diem rates when they attend meetings.

FY2009 – \$982.07

FY2010 – \$443.02

4. What were the council's revenues (by source) and expenditures (by object) for fiscal years 2009 and 2010?

Revenues are from state appropriations as part of the Division of Archaeology operations budget 327.08. All expenditures are travel-related.

5. Does the council, in conjunction with the state archaeologist, submit an annual comprehensive

report of their activities and the results of their studies to the Commissioner of Environment and Conservation, the Governor and members of the General Assembly by January of each year as required by Section 11-6-103(f), Tennessee Code Annotated? What other reports does the council prepare on its operations, activities, and accomplishments, and who receives these reports?

The Council submits a summary review of their activities to the leadership of the General Assembly and co-sponsors an annual presentation through the Current Research in Tennessee Archaeology meeting held each January. Division staff and other archaeologists present papers on their research in the previous year. The program is free and open to the public.

6. Does the council have a web site? If so, please provide its web address. What kind of public information is provided on the site?

Council information provided on TDEC web site address

<http://tn.gov/environment/boards/taac/>

Web site contains basic information about the Council; along with the names, positions, and term expiration dates of each member.

7. Is the council subject to Sunshine law requirements (Section 8-44-101 et seq., Tennessee Code Annotated) for public notice of meetings, prompt and full recording of minutes, and public access to minutes? If so, what procedure does the council have for informing the public of its meetings and making its minutes available to the public?

Yes. They use the public information section of TDEC.

TDEC Sunshine Notice for Boards and Commissions <http://tn.gov/environment/sunshine/#taac>

8. Does the council have the authority to promulgate rules? If so, and the council has promulgated rules, please cite the reference. If such authority is not granted, does the council feel that authority is needed?

No. We do not feel that rulemaking power is needed since the department has the rulemaking power under 11-6-116(b). See response to item 12 for an example of how the council and the department work together.

9. How many times has the council met during fiscal years 2009 and 2010, and how many members were present at each meeting?

FY2009: January 30, 2009 – 8 members present - Dr. Jefferson Chapman, Dr. Kevin Smith, Dr. David Dye, Mr. Corky Allen, Mr. Pat Cummins, Ms. Zada Law, Ms. Georgia Dennis, Dr. Tom Maher.

FY2010: January 22, 2010 – 8 members present –Dr. Kevin Smith, Dr. Jay Franklin, Dr. David Dye, Dr. Joseph Rife, Mr. Corky Allen, Ms. Zada Law, Ms. Georgia Dennis, Dr. Tom Maher.

Council meetings are held as part of the Current Research in Tennessee Archaeology annual meeting in January.

10. What are the benefits or drawbacks to designation as an archaeological site under the provisions of Section 11-6-110, Tennessee Code Annotated? What processes and procedures does the council have to identify and designate such sites? During the last five fiscal years, how many sites have been recommended by the council for designation in the state registry of significant archaeological sites?

There is an increased level of penalty for damage caused to a site listed on the Tennessee Register of Archaeological Sites, but listing is voluntary on the part of the owner. Selection of state-owned and privately owned sites is based on perceived or actual threat. No sites have been recommended for inclusion by the Council in the last five years.

11. During the last five fiscal years, how many criminal prosecutions did the Division of Archaeology undertake under police powers granted to division employees by Section 11-6-112, Tennessee Code Annotated? What were the most common specific charges brought? How many were classified as misdemeanors? How many were classified as felonies?

Criminal prosecutions are brought by district attorneys, but we have referred no cases to them in the last five years. Division of Archaeology personnel are not commissioned officers. If and when law enforcement officers are needed, we rely on park rangers.

12. What procedures has the council formulated, under the authority granted in Section 11-6-119, Tennessee Code Annotated, for the timely reburial of human remains or Native American burial objects following discovery or confiscation?

The Council debated and voted on procedures that were incorporated into Rule 0400-9-1 Native American Indian Cemetery Removal and Reburial, promulgated by the Department in 1991. There have been no legal challenges to the rule.

13. What were the council's major accomplishments during fiscal years 2009 and 2010?

Discussion of federal NAGPRA cases involving the Fewkes site in Williamson County and the David Davis Farm site in Hamilton County. Continued professional advice and comment upon Division activities.

14. Describe any items related to the council that require legislative attention and your proposed legislative changes.

None at this time.

15. Should this council be continued? Why or why not?

Yes. The Council represents an important avenue for discussion of sensitive topics, such as the treatment of human burials. Also, council members serve as an outlet to receive and pass along questions from concerned citizens regarding archaeological sites and advice.

16. Please list all council programs or activities that receive federal financial assistance and, therefore are required to comply with Title VI of the Civil Rights Act of 1964. Include the amount of federal funding received by program/activity.

Although the Council does not receive federal financial assistance, we have provided the following answers for the Department of Environment and Conservation.

If the council does receive federal assistance, please answer questions 17 through 24. If the council does not receive federal assistance, proceed directly to question 23.

17. Does your council prepare a Title VI plan? If yes, please provide a copy of the most recent plan.

The TDEC has a Title VI Plan that's developed for and applicable to all TDEC programs.

18. Does your council have a Title VI coordinator? If yes, please provide the Title VI coordinator's name and phone number and a brief description of his/her duties. If not, provide the name and phone number of the person responsible for dealing with Title VI issues.

The TDEC has a Title VI Coordinator and Complaint Officer.

Coordinator: Costin Shamble (615-253-8337) - Facilitate Title VI compliance activities; review data and make recommendations of actions to enhance Title VI compliance; conduct Title VI training programs; compile Department's Title VI Implementation Plan; represent the TDEC at meetings on Title VI.

Complaint Officer: M. C. Holland (615-532-0153) - Receives Title VI complaints; conducts an investigation of complaints; facilitates a remedy of Title VI concerns; makes recommendation(s) of actions needed to resolve complaint.

19. To which state or federal agency (if any) does your council report concerning Title VI? Please describe the information your council submits to the state or federal government and/or provide a copy of the most recent report submitted.

The TDEC is required to submit an annual Title VI Implementation Plan to the State Comptroller of the Treasury. Additionally, the Plan is submitted to and reviewed by the Title VI Legislative Sub-Committee of the State Legislature. A public hearing is conducted annually on the Plan. Disadvantaged business participation is submitted to the Environmental Protection Agency.

20. Describe your council's actions to ensure that council staff and clients/program participants understand the requirements of Title VI.

Internally:

- **Mandatory Civil Rights training of TDEC staff included Title VI**
- **TDEC Title VI brochure distributed to Department staff**
- **Periodic discussions with staff, Title VI related actions/activities**
- **Staff participation in training programs offered by state and federal agencies**

Externally:

- **Participation in Community Title VI workshops and conferences**
- **Contract language includes Title VI compliance**
- **Posting of Civil Rights posters**
- **Distribution of Title VI brochure**

21. Describe your council's actions to ensure it is meeting Title VI requirements. Specifically, describe any council monitoring or tracking activities related to Title VI, and how frequently these activities occur.

Minority participation in TDEC programs and activities is reviewed by the Title VI Coordinator. Activities reviewed include: representation on boards, disadvantaged business participation, and public participation. Meetings with the Commissioner's staff are held to discuss minority participation issues at least quarterly. Disadvantaged business participation is submitted quarterly to the Environmental Protection Agency. A compilation of the TDEC's minority outreach and participation is reviewed routinely and compiled annually.

22. Please describe the council's procedures for handling Title VI complaints. Has your council received any Title VI-related complaints during the past two years? If yes, please describe each complaint, how each complaint was investigated, and how each complaint was resolved (or, if not yet resolved, the complaint's current status).

The TDEC did not receive a Title VI Complaint during fiscal year 2008-2009.

Complaint procedure:

Complaints must be filed in writing. The complaint should be filed on the TDEC's complaint form. The division director of the program will forward the complaint to the Title VI Complaint Officer.

TDEC will make a prompt investigation when a complaint or other information indicating a violation is received. If the investigation indicates a violation of Title VI, TDEC will notify the recipient and will attempt to resolve the matter informally. If the investigation indicates that a violation did not occur, TDEC will notify the recipient and the complainant in writing.

The Title VI Complaint Officer will submit findings and conclusions to TDEC Civil Rights Champions. The Assistant Commissioner will issue a decision on the investigation findings and conclusions. Decisions made by the Assistant Commissioner can be appealed to the Commissioner within 30 days of receipt of the decision.

A complaint may be filed with the appropriate Federal agency no later than 180 calendar days after the alleged discrimination occurred.

Citizen suits remain an option in this process.

TDEC's toll free hotline (1-888-891-8332), accessible statewide, is maintained and available for complaints.

23. Please provide a breakdown of current council staff by title, ethnicity, and gender.

None. As mentioned in item 1, the Archaeological Advisory Council has no staff.

24. Please list all council contracts, detailing each contractor, the services provided, the amount of the contract, and the ethnicity of the contractor/business owner.

None. The Archaeological Advisory Council has no contracts.